

## PATENT COOPERATION TREATY

PCT/EP2004/004115

From the INTERNATIONAL BUREAU

## PCT

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

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29. MRZ 2006

Date of mailing (day/month/year) 09 March 2006 (09.03.2006)	
Applicant's or agent's file reference 03/038 VAT	IMPORTANT NOTIFICATION
International application No. PCT/EP2004/004115	International filing date (day/month/year) 19 April 2004 (19.04.2004)
Applicant CYTEC SURFACE SPECIALTIES AUSTRIA GMBH et al	

## 1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

## 2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

## 3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
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## PATENT COOPERATION TREATY

## PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 03/038 VAT	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/004115	International filing date (day/month/year) 19 April 2004 (19.04.2004)	Priority date (day/month/year) 21 April 2003 (21.04.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant CYTEC SURFACE SPECIALTIES AUSTRIA GMBH			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I  | Basis of the report   |
| <input checked="" type="checkbox"/> Box No. II | Priority  |
| <input type="checkbox"/> Box No. III           | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV            | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI            | Certain documents cited   |
| <input type="checkbox"/> Box No. VII           | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII          | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 740 14 35	Date of issuance of this report 02 March 2006 (02.03.2006)
	Authorized officer  Ellen Moyse  Telephone No. +41 22 338 89 75

## PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

Translation

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing  
(day/month/year)

Applicant's or agent's file reference

03/038 VAT

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/004115

International filing date (day/month/year)

19.04.2004

Priority date (day/month/year)

21.04.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

CYTEC SURFACE SPECIALTIES AUSTRIA GMBH

## 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

## 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

## 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004115

Box No. 1

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search:

3. ☐

In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

The examination is based on the following documents:

In the version for the Contracting States:

AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IT LU MC  
NL PT RO SE SI SK TR LI

Description, pages:

1-16 original version

Claims, Nos.:

1-10 original version

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004115

Box No. II

Priority

1. ☒ The following document has not yet been furnished:☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004115

Box No. V	Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims		YES
	Claims	1-4, 9, 10	NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO
2. Citations and explanations:			
<p>This opinion identifies the following documents cited in the search report; the numbering will be retained for the remainder of the procedure:</p> <p>D1: EP-A-1092742</p> <p>1. Document D1, cited by the applicant in the description, describes emulsifiers for alkyd resin emulsions having a high solids content. The emulsifier is synthesized on the basis of a polyhydroxyl component from the class of the sugar alcohols, a C<sub>1</sub>-C<sub>8</sub> alkoxy-polyethylene glycol and a cycloaliphatic dicarboxylic acid. The adduct Bb of claim 1 is synthesized on the basis of C<sub>1</sub>-C<sub>4</sub> alkoxy-ethylene glycol and cycloaliphatic dicarboxylic acid; the use of a polyhydroxyl component is not expressly ruled out in claim 1 of the application. The ratio of C<sub>1</sub>-C<sub>4</sub> alkoxy-ethylene glycol to cycloaliphatic dicarboxylic acid is specified in claim 1 and corresponds to approximately mol/1 mol. According to the mass fractions in claim 3 of D1, a ratio of this kind,</p>			

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/004115

Box No. V

Reasoned statement under Rule 43bis 1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

of 1/1 in mol is not ruled out. Consequently the subject matter of claim 1 appears not to be novel over D1. Additionally, the features of claims 2 to 4 are disclosed in D1 (see claims 3, 7 and 8), and so the subject matter of claims 2 to 4 is not novel over D1.

2. Independently from the issue of novelty it is observed that the omission of a component, in this case the polyhydroxyl component, cannot be regarded as being inventive. The object was only to provide further alkyd resins. In the description the applicant indicates that the emulsifying resin of D1 has an adverse effect on gloss retention and yellowing of a topcoat under weathering conditions. This assertion has not been demonstrated by comparative tests. It is also noted that the comparative example (example 3) of the application cannot be employed with respect to D1, since an aromatic dicarboxylic acid (phthalic anhydride) has been used.

3. Miscellaneous:

The document AT-B 336 277, cited in the application on page 1, does not relate to aqueous dispersions of alkyd resins. This reference therefore appears to be incorrect.